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DECISION



21603
H. M. Hill
R. M. C.
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-205298

DATE: April 23, 1982

MATTER OF: Consolidated Technologies, Inc.

DIGEST:

A bid in which prices are omitted is nonresponsive and must be rejected except in limited circumstances where from other prices in the bid a consistent pricing pattern is discernible that establishes evidence of error and the intended bid. Where prices bid for basic items and certain identical option items are the same, clear pattern of uniform pricing is established so that existence of error and amount of intended bid can be determined for omitted option prices.

Consolidated Technologies, Inc. (Consolidated), the apparent low bidder, protests the rejection of its bid as nonresponsive for failure to contain prices for items listed in amendment No. 3 to invitation for bids (IFB) No. DTCG23-81-B-30042, issued by the Department of Transportation, United States Coast Guard (Transportation). The IFB, which was amended three times, solicited bids for seventeen 30-foot Surf Rescue Boats with an option for up to three additional boats, including related support items. After the rejection of Consolidated's bid, the Coast Guard made an award for 20 boats to The Willard Company, the next low bidder, for \$824,776. Consolidated alleges that had it been awarded the contract, the cost would have been \$667,719.

We find Consolidated's bid to be responsive since the intended prices for the items which Consolidated did not price are apparent from the bid itself. Consolidated's protest is sustained.

The IFB, section L-28, required bidders to bid on all items and warned that failure to do so would result in the rejection of the bid as nonresponsive.

The IFB also provided that option prices would be evaluated for award if the option was exercised at the time of award, as was the case with this procurement. Consolidated's bid offered to deliver the 17 boats and provided an option for the three additional boats at the same unit price; moreover, Consolidated's base and optional bids for a support item entitled "approved Technical Publications" (identified in the IFB's schedule by the numbered items 0004(c) (base bid) and 0005(a), 0006(a), and 0007(a) (option bid)) were identically priced. In addition, Consolidated acknowledged each of the IFB's three amendments. However, in regard to amendment No. 3, Consolidated failed to include the prices for the optional support items entitled "Program Plans and Monthly Reviews" and "As-built Drawings and Technical Publications," which were added by the amendment. These optional items were numbered 0005(b) and (c), 0006(b) and (c), and 0007(b) and (c), which was the last item. Consolidated alleges that the intended price was "no cost" for items 0005(b), 0006(b), and 0007(b) and \$31 each for items 0005(c), 0006(c), and 0007(c). These alleged prices were the same prices which Consolidated bid for the identical items in its base bid.

The contracting officer found the requirement for the optional items involved a "valuable right" to the Coast Guard. As a result, he found that the omission could not be waived as a minor informality or irregularity.

The principles to be applied in resolving the question of the responsiveness of Consolidated's bid were summarized in International Signal and Control Corporation; Honeywell, Inc., B-192960, December 14, 1970, 78-2 CPD 416. The decision reads, as follows:

"As a general rule we have held that a bid is nonresponsive on its face for failure to include a price on every item as required by the solicitation and may not be corrected. This rule is applicable to option items that are to be evaluated at the time of award. Ainslie Corporation, B-190878, May 4, 1978, 78-1 CPD 340. This Office, however, recognizes an exception to the general rule in circumstances

where the bid as submitted indicates not only the possibility of error but also the exact nature of the error and the amount involved. The exception is based on the premise that where the consistency of the pricing pattern on the bid establishes the error and the price, to hold that bid non-responsive would be to convert an obvious clerical error of omission to a matter of responsiveness. 52 Comp. Gen. 604 (1973).

"For example, in Con-Chen Enterprises, B-187795, October 12, 1977, 77-2 CPD 284, * * * we permitted correction of pricing omissions in the first option year because the bidder had inserted prices identical to the basic contract period for the second option year. We found that the services required and the terminology used in the solicitation to describe the basic contract period and those of the first and second option periods were identical and concluded that the prices bid provided clear evidence of a pattern of consistent pricing. * * * However, in Ainslie, supra, prices for all option quantities were omitted so that we did not believe the exception applied because there was no evidence of a bidding pattern established for the option quantities.

"The distinction between Ainslie and [Con-Chen Enterprises] is that in the [latter decision] we could see a direct relationship between the option items bid and other similarly described option items for which price was omitted, whereas in Ainslie no similar relationship exists because no option prices were bid. Consequently, in Ainslie we could not discern whether the bidder might have intended to bid more for the option items than for the same basic items. Moreover, in Ainslie, it was not clear from the face of the bid that the bidder intended to bid the option quantities at all."

Based on our review of Consolidated's bid, we conclude that Consolidated did intend to bid on the omitted option quantities, because the probability of the error and the exact prices of the omitted items are, in our opinion, clearly discernible from Consolidated's bid.

Consolidated's bid shows that to the extent option items are priced, they are identical in price to each respective base quantity item. With respect to the base quantity of boats being purchased--17 in all--(item 0001) and the corresponding option quantity (three boats) identified by items 0005-0007, Consolidated bid the identical unit price of \$33,285. Similarly, with respect to the base quantity (272 copies) of "Approved Technical Publications" being purchased (item 0004(c)) and the corresponding option quantity (48 copies) identified by items 0005(a)-0007(a), Consolidated bid an identical unit price of \$5.75.

We therefore believe the only reasonable interpretation is that the omitted prices for the optional quantities of "Plans and Reviews" (items 0005(b), 0006(b), and 0007(b)) and "As-built drawings and Technical Publications" (items 0005(c), 0006(c), and 0007(c)) for the three optional boats were to be the same as the prices bid for the identical support items for the base quantity of 17 boats, namely: "no cost" for "Plans and Reviews" and \$31 per drawing set. See International Signal and Control Corporation; Honeywell, Inc., above. Since only three additional sets of "As-built drawings" were required by the amendment (compared with 17 sets for the base quantity of boats), Consolidated's evaluated bid would remain far below the price of the awarded contract.

Protest sustained. However, since the Coast Guard informed us on March 11 that possible termination costs amounted to 60 percent of the price of the awarded contract, we cannot recommend termination of the contract. Nevertheless, we are bringing this matter to the attention of the Secretary of Transportation.

for Milton J. Dorlan
Comptroller General
of the United States